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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,333	09/16/2003	Klaus Obendick	487.1084	3786
23280 7590 05/21/2007 DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EXAMINER MORROW, JASON S	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 05/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,333

Applicant(s)

OBENDIEK ET AL.

Examiner

Jason S. Morrow

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18 and 21-32 is/are allowed.
- 6) ☒ Claim(s) 19 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by DE101084493 (Obendiek).

Re claim 19, Obendiek discloses a convertible vehicle top, comprising a first roof part (5), a second roof part (4) adjoining the first roof part in a closed position of the top, an upper link mechanism (21, 20), and a link (28) pivotably connected to the first roof part, so that the link and the first roof part are capable of rotating relative to each other, and wherein the upper link mechanism is disposed between the link and the second roof part so as to connect the link to the second roof part (see figure 3), wherein said first roof part is a middle roof part of the convertible vehicle top and the second roof part is a front roof part of the convertible vehicle top.

Re claim 20, Obendiek discloses a convertible vehicle top comprising a first roof part (5), a second roof part (4) adjoining the first roof part in a closed position of the top, an upper link mechanism (21, 20), and a link (28) pivotably connected to the first roof part so that the link and the first roof part are capable of rotating relative to each other and wherein the upper link mechanism is disposed between the link and the second roof part so as to connect the link to the second roof part (see figure 3), wherein said upper link mechanism forms part of a four-bar linkage (4a, 20, 21, and 28) including a first connecting link (20) and a second connecting link

Art Unit: 3612

(21), said first connecting link and said second connecting link being each pivotably connected to said second roof part and to said link.

Allowable Subject Matter

3. Claims 1-18 and 21-32 are allowed.

Response to Arguments

4. Applicant's arguments filed 3/26/07 have been fully considered but they are not persuasive.

Applicant argues that the link 28 shown by the Obendiek reference is not pivotally connected to the middle roof part 5. The examiner respectfully disagrees. The link 27 is rigidly connected to the roof part 5. The link 28 is pivotally connected to 27 by the link 25. Therefore, the link 28 is pivotally connected to the roof part 5 by the links 27 and 28. While the link 28 is not directly pivoted on the roof part 5 or the link 28 does not pivot around a pivot located on the roof part 5, the roof part and link are capable of rotating relative to each other according to what is required by the claim language.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason S. Morrow
Primary Examiner
Art Unit 3612

May 11, 2007


JASON MORROW
PRIMARY PATENT EXAMINER

5/11/07